

Below is the Judicial Conference's policy on the electronic availability of transcripts that the Conference adopted in 2003, as revised in March 2007. It is applicable to all district and bankruptcy courts making transcripts available electronically to the public.

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### **Electronic Availability of Transcripts of Court Proceedings**

Courts making electronic documents remotely available to the public, whether documents are filed electronically or converted to electronic form, shall make electronic transcripts of proceedings remotely available to the public if such transcripts are otherwise prepared.

Within five business days of the filing by the court reporter/transcriber of the official transcript with the clerk's office pursuant to 28 U.S.C. § 753, each party shall inform the court, by filing a notice of redaction with the clerk, of the party's intent to redact personal data identifiers from the electronic transcript of the court proceeding. Such personal data identifiers include: Social Security numbers; financial account numbers; names of minor children; dates of birth; and home addresses of individuals. The filing of this notice triggers the procedures set out below. If no such notice is filed within the allotted time, the court will assume redaction of personal data identifiers from the transcript is not necessary, and the transcript may be made electronically available at the close of the fifth business day, unless the court, for good cause related to the application of the Judicial Conference policy on privacy and public access to electronic case files, finds that the transcript should not be available electronically for up to a period of 60 days.

An attorney is only responsible for reviewing for redaction, and providing any redactions to the court reporter for, the testimony of the witnesses called on behalf of the party and opening and closing statements made on behalf of the party. In cases where "standby" counsel is appointed to be available to assist a pro se defendant in his or her defense, such counsel is only responsible for reviewing for redaction, and providing any redactions to the court reporter for, the testimony of the witnesses the defendant called and the defendant's opening and closing statements. In a proceeding where only the parties are present (e.g., entry of plea or sentencing) counsel is responsible for reviewing his or her own remarks (and those of predecessor counsel) and those of his or her client for redaction purposes.

If the transcript relates to a panel attorney representation pursuant to the Criminal Justice Act (CJA), the attorney conducting the review is entitled to compensation under the CJA for functions performed to fulfill the redaction obligation, including the following activities: (1) gaining access to the transcript, including travel, if needed; (2) reviewing to determine whether to file notice of intent to redact; (3) filing notice of intent to redact or motion for an extension of time; (4) reviewing for redaction request or motion; (5) preparing and filing redaction request or motion; and (6) other (including pleadings, hearings or other follow-up).

The panel attorney is also entitled to reimbursement under the CJA for costs associated with obtaining a transcript for purposes of redaction review. Standby counsel appointed to assist a pro se defendant is likewise entitled to compensation and reimbursement. In the event that a case involving a CJA representation has already been closed and the original attorney is no longer available, or in the event that standby counsel is no longer available, new counsel may be appointed under the CJA and compensated as outlined above. In the event that the original appointed counsel is still available, but has filed a final voucher for the underlying case, such attorney shall be permitted to file a supplemental voucher for compensation.

If a notice of redaction is filed by any party, following the filing of the official transcript with the clerk's office, the official transcript is not to be made remotely electronically available to the general public. Within 21 calendar days of the filing of the transcript, or longer if the court so orders, the parties shall submit to the court reporter/transcriber a statement indicating where the following personal data identifiers appear in the transcript: Social Security numbers; financial account numbers; names of minor children; dates of birth; and home addresses of individuals.

The court reporter/transcriber shall partially redact these personal data identifiers from the electronic transcript as follows:

- Social Security numbers to the last four digits;
- financial account numbers to the last four digits;
- dates of birth to the year;
- names of minor children to the initials; and
- (in criminal cases only) home addresses to the city and state.

During the 21-day period, or longer if the court so orders, attorneys may move the court for any additional redactions to the transcript. The transcript shall not be electronically disseminated until the court has ruled upon any such motion.

The Director of the Administrative Office may lengthen the period of time for electronic filing of a transcript when, in the Director's judgment, a district justifies such an extension.

### **Policy Note**

This policy is intended to apply to electronic transcripts, whether originally filed in electronic form or converted from hard copy to electronic form. It applies to electronic transcripts made available via CM/ECF, WEBPACER, PACER, RACER or a non-court-related electronic depository (e.g., Exemplaris). It does not affect in any way the obligation of the court reporter/transcriber to file promptly with the clerk of court the court reporter's/transcriber's original records of a proceeding or the inclusion of a filed transcript with the records of the court pursuant to 28 U.S.C. § 753. This policy does not affect the obligation of the clerk to make the official transcript included in the court file available for copying by

the public without further compensation to the court reporter/transcriber pursuant to Judicial Conference policy.

If a party desires to respond to any notice of redaction or motion for additional redaction, the court may establish a briefing schedule to provide sufficient time for such response.

Nothing in this policy creates a private right of action.

It is not the intent of this policy to affect court reporter/transcriber compensation in any way.

This policy is intended to deal with the Judicial Conference policy on privacy and public access to electronic case files as it applies to the electronic filing of transcripts. It is not intended to change any rules or policies with respect to sealing or redaction of court records for any other purpose.

This policy does not prevent the production of a transcript on an expedited basis for a party, or any other person or entity, that may order such a transcript, subject to whatever court rules are currently imposed to protect sealed materials. Any non-party that orders a transcript on an expedited basis should be alerted to the Judicial Conference policy on privacy and public access to electronic case files.